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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,962	01/16/2004	Tiandong Jia	4316/045	6521
22440	7590	11/29/2004	EXAMINER	
GOTTLIEB RACKMAN & REISMAN PC 270 MADISON AVENUE 8TH FLOOR NEW YORK, NY 100160601			SWIATEK, ROBERT P	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 11/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/758,962	JIA ET AL.	
	Examiner	Art Unit	
	Robert P. Swiatek	3643	<i>MLW</i>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 August 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2 and 4-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 10-15 and 22 is/are allowed.
- 6) Claim(s) 1,5,16,19-21,23 and 24 is/are rejected.
- 7) Claim(s) 2,4,6-9,17,18,25 and 26 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 30 August 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 6-7-2004.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Kirch (US 2003/0106500 A1). The Kirch publication describes a method of constructing a pet chew toy, the method encompassing the steps of providing a rawhide section; washing the section (see page 3, column 1, lines 14, 15, of Kirch); infusing the hide section with a flavor by, for example, steeping it in a solution (page 3, column 1, lines 21-24); dyeing the hide section to provide it with a visually-enticing color (page 3, column 1, lines 28, 29); cutting the section into strips (page 3, column 1, lines 38-40); rolling the section with another section to form a roll-shaped chew (see Figures 7, 10 of Kirch); and permitting the chew toy to dry (page 3, column 1, line 24).

Claims 16, 19, 20, 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Fisher (US 4,535,725). The Fisher rawhide chew toy is constructed from a hair-containing piece of rawhide rolled into a cylindrical form and knotted at the ends or in the center. With respect to Figure 3 of Fisher, those hairs extending longitudinally outwardly from the right and left edges

of the toy are considered to comprise “strips” of roughly flosslike dimensions. As an animal chewed the toy, numerous of the hairs would pass between its teeth in a manner similar to that of floss. As to claim 20, the hair of Fisher located between the ends of the Figure 3 embodiment of the toy is considered to constitute a “coating” on the toy body.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher. The dimensions of the Fisher toy, including the length of the hair, while not disclosed nonetheless would have been obvious to one skilled in the art wishing to permit a range of differently-sized animals to use the toy.

Claims 2, 4, 6-9, 17, 18, 25, 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The disclosure is objected to because of the following informalities: On page 6, line 19, “16” should be changed to –14–. Appropriate correction is required.

Applicants’ arguments filed 30 August 2004 have been fully considered but they are not persuasive. Claims 1, 5, 16, 19-21, 23, 24 are not believed allowable for the reasons set forth above.

Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action. The amendment to claim 1 necessitated the new ground of rejection.

Summary: Claims 1, 5, 16, 19-21, 23, 24 have been rejected; claim 3 has been canceled; claims 2, 4, 6-9, 17, 18, 25, 26 have been objected to; claims 10-15, 22 have been allowed.

RPS: 0703/308-2700
23 November 2004

Robert P. Swiatek
ROBERT P. SWIATEK
PRIMARY EXAMINER
ART UNIT 383 3643